



Regulatory and legal framework for public procurement (PP) and specifically for co-production in public-private partnerships (PPP) with agents of the social and solidarity economy, Jordan

MedTOWN Project

Co-production of social policies with social and solidarity economy actors to fight poverty, inequality and social exclusion.



Community of Practice:



QUESTIONNAIRE PROJECTS PHASES AND LOCAL PARTNERS. MEDTOWN PROJECT. 3rd LOT.

DEMOSTRATIVE ACTION. Name: Business incubator for People with disabilities (PWD) MUNICIPALITY, REGION AND COUNTRY ACTION: Dair Abi Said, Koura District, Jordan

BRIEF DESCRIPTION OF CONTEXT:

The PPP Law N. 17 of 2020 focused on large infrastructure projects and investments through PPPs and left out the regulations that facilitate collaborative policies, through PPPs, in the realisation of co-production of public policies that serve the better delivery of services in the field of SSE. Indeed, the new law is designed to attract greater international investment in Jordan through the provision of PPP projects, which means that more modest PPP projects, usually driven locally by SSEs, are left out of the law.

ARRAY TO BE FILLED IN:

Table with 4 columns: N°, ASPECTS TO BE REPORTED, ACTIONS, OTHER ACTIONS/ DISCLAIMERS, OTHER DISCLAIMERS. Row 1: Existing applicable legislation governing PP and PPPs. Row 2: Purpose of the regulation.

1 Especially related to the Social Solidarity Economy (SSE).

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| | <p>spending. The recently enacted new Unified Public Procurement Bylaw no. 28 for 2019 provides for the establishment of a central policy and oversight unit and an independent complaints-handling unit. In addition, it contains provisions on framework agreements, electronic Government Procurement (e-GP), and alignment of SOE procurement practices with the provisions of the Bylaw.</p> | | |
| <p>3² Consideration-Theoretical Definition PP (According to regulation)</p> | <p>No definition for PP in the by-law. According to the description, “this Regulation shall apply to all government entities whose budget is part of the Central Government Budget, and to all government entities, including the Cabinet, and it is applied for construction work, goods and services”</p> | | <p>no regulatory definition</p> |
| <p>4 Scope of application of PP legislation</p> | <p>Supranational, State, Regional, Local</p> | <p>Public</p> | <p>Yes, law No. 28 of 2019, issued pursuant to Article 120 of the Constitution of the Hashemite Kingdom of Jordan.</p> |
| <p>5 Stakeholders Involved PP</p> | <p>Government Tenders Department (GPD), GPD was established in 1982 in accordance with the provisions of the Government Works By-law No. (39) for the year 1982, and headed by a Director-General appointed a Cabinet decision and administratively connected directly with</p> | <p>The GPD has developed an e-procurement system to enhance transparency in procedures related to government tenders and improving purchase processes.</p> <p>The e-procurement system tracks all stages of the purchase process, from packing and</p> | |

² Necessary for making comparative terms of equivalent concepts

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| | <p>the Minister of Public Works and Housing. The Department is a central department and does not have other branches in the Kingdom.</p> <p>All governmental institutions.</p> | <p>assembling supplies to submitting bidders' tenders, signing contracts with suppliers, receiving goods and paying bills. The system aims to develop a unified supplies plan for the public sector through finding common criteria for supplies being used by government institutions including medical equipment and software and computer hardware, in a way that enhances controlling expenditures.</p> | |
| <p>6 Administration - competent legislative body PP</p> | <p>Government Tenders Department (GPD), Ministry of Public Works and Housing (MoPWH).</p> <p>The Council of Ministers (prime Ministry) have the authority to make exemptions based on proper justification and for a specific period of time (Article 3-D and Article 3-H of the by-law No. 28 of 2019)</p> | <p>Ministry of Public Works and Housing MoPWH (GDP is one of MoPWH departments)</p> <p>The Council of Ministers (Prime Ministry).</p> | |
| <p>7 Administration - competent executive body PP</p> | <p>Government Tenders Department (GPD), in cooperation with the procurement/finance departments at the governmental institutions.</p> | <p>Ministry of Public Works and Housing MoPWH (GDP is one of MoPWH departments)</p> | |
| <p>8 Measures promoting or encouraging PP and PPPs</p> | <p>The Government allocate appropriate financial and human resources for the successful implementation of new PP by-law by: (i) operationalizing the central policy and oversight unit and the procurement complaints handling unit in 2019; (ii) Issuance of regulations and standard bidding documents to support implementation of the new bylaw; (iii)</p> | <p>The development of the eGovernment Procurement (e-GP) system, JONEPS, to ensure the highest levels of integrity, transparency of the procedures and fair competition between the bidders and wider, more equitable access to the procurement market for the private sector and NGOs.</p> | <p>N.A.</p> |

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| | <p>conduct an awareness campaign for the governmental institutions; and (iv) develop and deliver a continuous capacity building program to all stakeholders including the private sector</p> | | |
| <p>9 Other PP and PPP related legislation</p> | <p>Articles 9 – 11 – 12 – 19</p> <p>Regulation Number (80) of 2008-Regulation for Implementing Privatization Transactions, Issued in pursuance of Article (20) of The Privatization Law Number (25) of 2000.</p> | <p>No Relationship-Influence with ESS</p> | |
| <p>10 Possibility of creating new PP and PPP legislation</p> | <p>If the Council of Ministers believe that it is a priority. As mentioned in the Constitution of the Hashemite Kingdom of Jordan, Article 91:</p> <p><i>1- The Prime Minister shall refer to the Chamber of Deputies any draft law, and the Chamber shall be entitled to accept, amend, or reject the draft law, but in all cases the Chamber shall refer the draft law to the Senate. No law may be promulgated unless passed by both the Senate and the Chamber of Deputies and ratified by the King.</i></p> <p>Ten or more Senators or Deputies propose this law, as per article 95 of the constitution: Article 95:</p> | <p>Prime Ministry – Parliament</p> | |

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| | <p>1- <i>Any ten or more Senators or Deputies may propose any law. Such proposal shall be referred to the committee concerned in the House for its views. If the House is of the opinion that the proposal be accepted it shall refer it to the Government for drafting it in the form of draft law, and to submit it to the House either during the same session or at the following session.</i></p> <p>2- <i>Any law proposed by Senators or Deputies in accordance with the preceding paragraph and rejected by either House shall not be presented for a second time during the same session.</i></p> | | |
| 11 Possibility to amend existing legislation PP and PPP | See 10 above | Prime Ministry – Parliament | |
| 12 Problem Identification/Regulatory implementation PP and PPPs | N.A. | The institutional differences between partnering organisations (the classical division between the public and private partnership) | |
| 13 PP, PPP and other regulations applicable to the Demonstration Action (Concrete Project) | N.A. | | |

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| 14 | Concession Regulations | N.A. see 10 above. | There is a mechanism for complaints and disputes relating to public procurement in Jordan | |
| 15 | Regulations Regulation of aid and subsidies | No regulation | Relatively little funding is available to support SSE entities long-term projects and legislative reform role. This leads to weak continuity and sustainability of these entities and their programs. | |
| 16 | Regulating other possible forms of PPPs | N.A. | | |
| 17 | Examples of public procurement of co-production public policies with PPPs and SSE actors | N.A. <u>Point out successful practices/examples of public procurement for co-production of public policies with PPPs and SSE actors in the country</u> | N.A. <u>Provide references and functional and territorial development framework of such actions and explain reasons for success, differences and similarities with demonstrative action</u> | |
| 18 | Other issues to highlight | Issues considered relevant to the regulation of PCs and PPPs | | |

CHALLENGES & RECOMMENDATIONS:

Challenges:

- 1- The PPP projects may encounter violations of fundamental human rights as a result of lack of knowledge on SSE and low level of commitment.
- 2- In many cases, the PPPs projects focus on the profitable projects due to the institutional differences between the private and public sector, and lack of knowledge of government officials on the SSE projects and policies.

Recommendations:

- 1- In the PPP projects in Jordan, an effective working relationship should be created to promote sound project selection, fair and competitive procurement, effective delivery of public services, and the ultimate success and sustainability of PPP projects.



2- The development of a step-by-step guide to developing PPPs will assist the relevant Jordanian Ministries through the PPP process, from identifying a project through developing a business case and the procurement process.

MEASURES TO BE IMPLEMENTED:

The private sector should be invited into sectors that have traditionally been in the public domain (such as health, education, transportation, infrastructure etc.) and facilitate its participation therein. Public and private actors must seek greater efficiency, quality and sustainability in the delivery of social goods and services traditionally provided by the public sector.

OTHER INTERESTING SUGGESTIONS/NOTES:

N.A.

IDENTIFIED CONFLICTING ISSUES (if any):

N.A.

EXAMPLES OF ACTIONS DEVELOPED IN THE FIELD OF SSE IN THE COUNTRY, REFERENCES AND HOW THEY HAVE BEEN DEVELOPED (if any):

N.A.

